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AUG 20 2002

Public Disclosure Commission



Sent via fax and first class mail

August 15, 2002

Susan Harris, Assistant Director
Public Disclosure Commission
711 Capitol Way Rm. 206
Olympia, WA 98504-09908

Dear Susan:

Thank you for the opportunity to meet on August 14 regarding matters related to voluntary authorization of payroll deductions. This letter will follow up on that meeting. Please provide this letter to the Commission as our submission, rather than the letter that I hand delivered to you on August 14.

Revisions to authorization card

As we discussed, the State Labor Council requests that WAC 390-17-100 be revised to eliminate requirements that are inconsistent with FEC requirements, and are not required by statute. These inconsistent requirements include (1) that the card indicate the city and state of the PAC (100(2)(c)); (2) that the card include an effective date in addition to reflecting the date it is signed (100(2)(e)) (this is an artifact of the old rule making authorizations effective for only 12 months); and (3) that the disclosures regarding discrimination track specific language, rather than simply "informing the employee of the prohibition against employer and labor union discrimination described in [680(2)]" (100(2)(g)). Requiring that authorization cards include these specifics creates an inevitable conflict with federal PAC authorizations, which serve the same purpose, but do not include this information, or require that the admonition regarding discrimination track particular language. As we agreed, under separate cover I will submit examples of cards that comply with FEC requirement, and also address the essence of the prohibition in Washington law.

Please note that contributors will be advised of the precise protections articulated in state law each year when they receive the notices required by 680(2), as amended.

With respect to the bulleted items on page 2 of the Notice, the suggestions of the Washington State Labor Council are as follows:

Who sends annual notice of right to revoke?

PAC or entity sponsoring PAC sends. Provide employer with notice that it was sent.

Who sends annual notice of non-discrimination language?

PAC or entity sponsoring PAC sends. Provides employer with notice that it has been sent.

Should there be public access to the notifications?

No, the statute does not include these notices among the items to be made available for inspection.

When do the notifications need to be sent?

Should be on same time frame each year, for all contributors. The result is that the notice can be scheduled, and entities interested in assuring compliance can send reminders to PACs and sponsoring organizations. We would suggest that notice be given in the 60 days **between May 1 and July 1** each year. Those who have signed authorizations in the prior year would receive notice of the right to revoke much less than 12 months after signing their authorization.

What should the notification say?

The notification should say something to the effect of:

State law requires that you receive annual notice of the right to revoke your payroll deduction authorization. In addition, state law requires that you be advised that no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot measure, political party, or political committee.

Should the PDC provide sample language?

The PDC may provide sample language, and require that any notice include language substantially in that form.

How does the public verify that the notification was sent?

The statute does not contemplate public inspection of this notice. For the PDC to require public inspection would exceed its authority, as it is empowered only to implement the statute, not to create new substantive rights and obligations.

August 14, 2002

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The PAC or sponsor would provide verification that the notice had been sent to the employer. The employer has an incentive to monitor whether it has received verification in order to assure that it is not in violation of 680(3). Also, the PDC has the right to audit any PAC to confirm that the notices had been sent. Finally, in the case of unions, members would typically have the right to inspect the union's own records to confirm that the notices had been sent.

What happens if there is a failure to notify the employer?

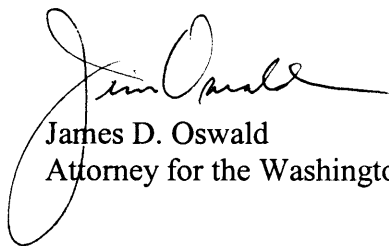
Because the PAC or sponsor is required to provide annual notice of the non-discrimination provision of 680(2), failure to do so could be punished pursuant to the PDC's regulatory authority. Any employer that did not receive verification that notices were sent as required could suspend voluntary deductions until it received verification. This would enable the employer to avoid incurring liability under 680(3) for the PAC's failure to comply with the statute. This parallels what employers have presumably been doing when they did not receive proof of annual reauthorization, as was required by the prior version of 680(3).

Proposed elimination of the right of complainants to testify at Commission hearing.

With respect to proposed changes to WAC 390-37-030, the WSLC does not object to a rule that prohibits persons other than the complainant from speaking at an enforcement hearing. However, we do feel that the complainant should retain the right to be heard at the enforcement hearing. This eliminates the possibility that the staff might inadvertently fail to appreciate the significance of certain factual or legal issues implicated by the complaint. If this is not practical, or threatens the right of the respondent to prepare for the charges against it, arrangements should be made to assure that the complainant receives a copy of the Investigative Report sufficiently far in advance to submit additional materials in advance of the hearing.

Thank you again for the opportunity to be heard on these important issues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jim Oswald", with a large, stylized loop at the beginning.

James D. Oswald
Attorney for the Washington State Labor Council

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FACSIMILE TRANSMITTAL SHEET

TO: Doug Ellis and Susan Harris

COMPANY: PDC

FROM: James D. Oswald

DATE: 8/20/02

FAX NUMBER: 360-753-1112

PAGES INCLUDING COVER: 4

RE: FEC contribution authorizations

Dear Susan and Doug,

As we agreed, I am sending along some representative FEC payroll deduction authorization forms. In each case, the forms make clear that the contributions are not a condition of employment, and the member may choose not to contribute without reprisal. This is certainly informs the member of the prohibition described in 42.17.680(2). As we discussed, I believe that these disclosures should satisfy Washington State law. No substantial purpose is served by requiring specific language regarding the absence of reprisals. On the other hand, requiring specific language assures that the typical FEC form will not satisfy State WACs.

If the FEC form were acceptable in this state, it would avoid issues regarding whether proper disclosure was provided with respect to funds received by federal committees making contributions in Washington State.

Thanks for your attention to this important problem. Please call with any questions.

Jim Oswald

The information contained in this transmission is privileged, confidential, and attorney work product. It is intended for the use of the named recipient only. If you are not the named recipient you are hereby notified that any disclosure, copying, distribution or use of the contents of this transmission is strictly prohibited. If you receive this message in error please notify us by telephone

Political Contribution Withholding Authorization

I, _____, authorize _____ School
(Name) (District Name)

District to withhold \$ _____ per month from my earnings in order to make political contributions to _____ COPE. It is effective on _____

FACSIMILE TRANSMITTAL MEMO

SENDER

TO:	
COMPANY:	
FAX:	
DATE:	

NO. OF PAGES:

FROM:	Jim
COMPANY:	9288
FAX:	
PHONE:	

I hereby voluntarily authorize my employer to deduct from my monthly paycheck the amount stated above and to forward that amount to _____. I understand that contribute to _____ COPE are not a condition of membership in the local or of employment with any employer, that I have the right to refuse to sign this authorization and to not contribute to _____ COPE without reprisal and that _____ COPE will use the money it receives to make political expenditures, including contribution in connection with federal, state, and local elections. I also understand that the union cannot favor or disadvantage me because of the amount of my contribution or my discussion to not contribute. Contribution to the _____ COPE are not deductible as charitable contribution for federal income tax purposes. This authorization shall remain in effect until revoked by me in writing.

Signature: _____ Date: _____

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JUL 22 2002

Law Offices of James D. Oswald

After filling out this authorization, please return it to the Union office.

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Dated 10-3-01

DEDUCTION AUTHORIZATION

- AFL - CIO

First Name	Initial	Last Name
Address	City	Zip Code
Social Security No.	Department	Phone; Work
		Home

I hereby authorize the _____ to deduct each pay period the amount certified below as a voluntary contribution to be paid to the Treasurer of the _____ Committee, Washington, D.C. 20035, to be used in accordance with the By-Laws of _____ Committee for the purpose of making political contributions. My contribution is voluntary and I understand that it is not required as a condition of membership in any organization or as a condition of continued employment and is free of reprisal, and that I may revoke this authorization at any time by giving written notice.

In accordance with federal law, the _____ Committee will accept contributions only from members of _____ and their families.

Contributions or gifts to _____ are not deductible as charitable contributions for federal income tax purposes.

Deduction Per Pay Period ☐ \$1.00 ☐ \$1.50 ☐ \$2.00 ☐ \$5.00 ☐other

Signature

Date

PLEASE FORWARD ONE COPY TO THE EMPLOYEES PAYROLL DEPARTMENT AND ONE COPY TO YOUR LOCAL PRESIDENT